

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Gasconade County R-1 School District)	File No. SLD-257203
Hermann, Missouri)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. <u>97-21</u>
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: November 10, 2003

Released: November 12, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau.

1 The Telecommunications Access Policy Division has under consideration a Request for Review filed by Gasconade County R-1 School District, Gasconade, Missouri (Gasconade).¹ Gasconade seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) relating to Gasconade's application for discounts in Funding Year 2001 under the schools and libraries universal service support mechanism.² For the reasons set forth below, we grant in part and deny in part Gasconade's Request for Review, and remand to SLD for processing consistent with this Order.

2 At issue in the instant Request for Review is Funding Request Number (FRN) 646265, which requested \$1,823.00 per month in support for discounted telecommunications services.³ In an attachment to its FCC Form 471, Gasconade indicated that three of the phone lines included in the funding request would be used for a kitchen, maintenance office, and a green house alarm.⁴ During review of the application by Program Integrity Assurance (PIA),

¹ Letter from Carol Binkholder, Gasconade County R-1 School District, to Federal Communications Commission, filed January 16, 2002 (Request for Review).

² See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ FCC Form 471, Gasconade County School District, filed January 18, 2001.

⁴ *Id.* at attachment.

5 Gasconade subsequently filed the instant Request for Review.¹⁴ Gasconade asserts that in August 2000, the phone system was converted to a multi-line key system that randomly uses available telephone lines for outgoing phone calls.¹⁵ Thus, Gasconade is unable to pinpoint specific usage to specific lines, and states that because the telephone lines were part of a shared network of services, they should be eligible for support under program rules.¹⁶ Gasconade also provides additional telephone bills showing that the maintenance, kitchen, and green house alarm telephone lines accounted for only 4% of the total telephone bill.¹⁷

6 After review of the record, we grant in part and deny in part Gasconade's Request for Review. In Funding Year 2001, the Eligible Services List stated that "[s]upport for the administrative functions of . . . education programs is permitted so long as the services are part of the network of shared services for learning. Support will be limited to services delivered to the onsite educational facility or facilities."¹⁸ Although we conclude that SLD acted appropriately on the original application based on the information before it at that time, Gasconade clarified in its appeal letter to SLD that the telephone lines are part of a multi-line key system.¹⁹ We agree that based on program rules for Funding Year 2001 and the configuration of Gasconade's services, the kitchen and maintenance telephone lines would be eligible for discounts because the telephone lines are part of a network of shared services.

7 We note, however, the Funding Year 2001 Eligible Services List specifically indicated that a burglar and fire alarm telephone lines are not eligible for discounts.²⁰ Thus, we conclude that the greenhouse alarm was not eligible for discounts in Funding Year 2001. Nevertheless, Gasconade indicates that this telephone line is no longer used solely for this

(continued from previous page)

¹⁴ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Carol Binkholder, Gasconade County R-1 School District, issued October 1, 2001

¹⁵ Request for Review

¹⁶ *Id*

¹⁷ *Id*

¹⁸ According to the SLD Appeal Guidelines, SLD will grant an appeal "[w]hen the appeal provides documentation to correct an incorrect SLD assumption made because there was insufficient information in the application file about an issue." See SLD website, Appeals Guidelines (August 5, 2002)

< <http://www.sl.universalservice.org/reference/AppealsSLDGuidelines.asp> >

¹⁹ See SLD website, Eligible Services List (December 29, 2000)

< <http://www.sl.universalservice.org/reference/eligible.asp> > (Funding Year 2001 Eligible Services List) The Eligible Services List provides guidance from SLD on the eligibility of products and services for which applicants may be seeking funding. The Commission recently clarified the scope of the requirement that services be used for an educational purpose and determined that, in the case of schools, activities that are integral, immediate, and proximate to the education of students qualify as educational purposes under this program. See *Schools Second Order* at paras. 17-21. The Commission further stated that "reasonable requests for any supported service – over any technology platform – to be used by any school or library staff while in a library, classroom, or on school or library property, shall be eligible for discounts" and that services would become available under this clarification beginning in Funding Year 2004. *Id.* at paras. 19-20. This broadened standard therefore does not apply to requests for funding filed in 2001.

²⁰ SLD Appeal Letter at 1

²¹ Funding Year 2001 Eligible Services List at 2 and 5

purpose.²¹ Therefore, we believe that it is appropriate to remand this matter to SLD for inquiry relating to the use of the greenhouse alarm line and its integration in the network of shared services. We note that should the greenhouse alarm telephone line be determined to be ineligible, the costs for this line do not appear to be more than the 30 percent of total funding request.

8. Finally, to the extent that Gasconade requests to modify its application, either by submitting revised monthly telephone bills, or removing ineligible lines from the telephone system, we deny that request. Gasconade's request contravenes the Commission's policy that applicants should not be permitted to amend completed FCC Forms 471 to revise its application after closure of the filing window deadline.²² Accordingly, we grant in part and deny in part Gasconade's Request for Review and remand this matter to SLD for processing consistent with this Order.

9. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Gasconade County R-1 School District, Hermann, Missouri, on January 16, 2002, is GRANTED in part, DENIED in part, and REMANDED to SLD for further processing.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

²¹ SLD Appeal Letter

²² See *Request for Review by Cheney Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-142969, CC Dockets No. 96-45 and 97-21, Order, DA 01-351 (Com. Car. Bur. rel. Feb. 13, 2001), at para. 6.

SLD determined that the kitchen, maintenance, and green house alarm lines accounted for \$664.84 of the total monthly telephone bill.⁵ As a result, these lines represented over 30% of the total funding request.⁶

3 Applicants may seek support for eligible services only.⁷ The instructions for the FCC Form 471 clearly state: "You may not seek support for ineligible services, entities, and uses."⁸ The instructions further clarify that "[i]f ineligible services are also being provided under this contract or service agreement, and if they are featured on this list, the applicant should clearly identify them as ineligible."⁹ Although SLD reduces a funding request to exclude the cost of ineligible services in circumstances where the ineligible services represent less than 30 percent of the total funding request, SLD will deny a funding request in its entirety if ineligible services constitute more than 30 percent of the total.¹⁰ An applicant can avoid denial by subtracting out, at the time of its initial application, the cost of ineligible services.

4 On July 23, 2001, SLD issued a Funding Commitment Decision Letter that denied funding for FRN 626265 on the grounds that "30% or more of this FRN includes a request for phone lines for kitchen, maintenance, and green house alarm which is an ineligible product(s) /service(s) based on program rules."¹¹ Because these lines accounted for more than 30% of the funding request, the entire funding request was denied. On August 7, 2001, Gasconade filed an appeal with SLD, and submitted new monthly telephone bills showing that the ineligible lines accounted for less than 4 percent of the funding request.¹² The appeal was denied by SLD.¹³

⁵ See Facsimile from Carol Binkholder, Gasconade County School District, to Josh Hansen, Schools and Libraries Division, Universal Service Administrative Company, dated April 30, 2001 (11:36 am); Program Integrity Assurance, Exception Documentation Log, Gasconade County School District, entry dated May 16, 2001.

⁶ *Id.* Although SLD reduces a funding request to exclude the cost of ineligible services in circumstances where the ineligible services represent less than 30 percent of the total funding request, SLD will deny a funding request in its entirety if ineligible services constitute more than 30 percent of the total. See 47 C.F.R. § 54.504(c)(1), *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 03-101 (rel. April 30, 2003), paras. 40-41. See also *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC Docket No. 97-21 and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058 (1998).

⁷ 47 C.F.R. § 54.504 *et seq.*

⁸ Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471) (October 2000) at 17 (Form 471 Instructions).

⁹ Form 471 Instructions at 20.

¹⁰ See 47 C.F.R. § 54.504(c)(1), *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 03-101 (rel. April 30, 2003) (*Schools Second Order*), paras. 40-41, *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC Docket No. 97-21 and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058 (1998).

¹¹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Gasconade County School District, dated July 23, 2001.

¹² Letter from Carol Binkholder, Gasconade County R-1 School District, to Schools and Libraries Division, Universal Service Administrative Company, filed August 10, 2001 (SLD Appeal Letter).